IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.56 OF 2005

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.S.V.Sadavarte for Applicant

Coram : R.S.Mohite, J

Date : 28.11.2007

PC

1. This appeal is against acquittal for an offence under section 138 of the Negotiable Instruments Act, 1881. On perusal of the impugned judgment and order, I find that the same is based on plausible reasons. The cheque in question which was dishonoured was presented on 23rd December, 2003. It had been issued by the accused for purchase of certain premises. The agreement provided that the cheque was to be presented after certain compliance like occupancy certificate etc was obtained. The Courts have held that the record indicates that the cheque was presented prematurly. Name

of the accused was entered in the city survey record later on 31st May, 2006. The finding is that the complainant had presented the cheque without meeting with his part of the contract. The record indicates that earlier two cheques given by the accused have been encashed and in respect of the cheque in question stop payment was directed by the accused. It was the case of the accused that this was because the complainant had not complied with his terms of the agreement. It is not shown to me as to how the complainant had complied with the requisite condition of the agreement. Not a fit case for entertaining the appeal. Hence, leave refused. Appeal papers to be filed.

(R.S.Mohite,J)